



## Release and Waiver of Liability, Assumption of Risk and Indemnity Agreement

It is Otterbein University's ("University") policy that an individual ("User") will not be permitted to use the facility or equipment located within the facility unless he or she is willing to accept the associated inherent risks and execute this waiver of liability pertaining to those risks. Such risks are inherent to personal health, safety and/or property therewith.

I, \_\_\_\_\_ ("User"), (or on behalf of my minor child) hereby acknowledge that I have (or may during this calendar year) voluntarily elected to use the facility and equipment located within the facility. I acknowledge that my use of the facility and equipment is elective and voluntary. In consideration for being permitted by the University to use the facility, which may include inherently dangerous equipment, I hereby acknowledge and agree to the following:

**PROMOTIONAL RIGHTS:** As a condition of my use, I hereby grant Otterbein University the right to use, for promotional purposes only, any photographs of me taken by Otterbein University, its employees or agents, during my use of the facility and equipment. I further understand and agree that Otterbein University may use (for marketing purposes) any statements or quotes attributed to me in my evaluation of the facility and equipment.

**RULES AND REQUIREMENTS:** I agree to conduct myself in accordance with Otterbein University's policies and procedures. I further agree to complete the required training as applicable for each piece of equipment I choose to use in the facility. I agree to always wear the appropriate required safety equipment while using the machines and equipment. I acknowledge that Otterbein University has the right to terminate my use of the facility and equipment if it is determined that my conduct is detrimental to the other Users of the facility, if my conduct violates any rule of the facility and equipment, or at Otterbein University's discretion.

**INFORMED CONSENT:** I have been informed of and I understand the various aspects of the use of the facility and equipment. I understand that as a User of the facility and equipment, I will engage in physical activities that involve or may involve inherently dangerous activities in which I could sustain, including but not limited to serious bodily injuries including serious injury to virtually all bones, joints, muscles, and internal organs; cardiac problems; brain damage; illness; or even death as a consequence, and that protective equipment or preventative measures may be inadequate to prevent serious injury. These serious personal injuries and possible death may not only be a consequence of Users' (as defined herein) actions, inactions, negligence or fault, but also the actions, inactions, negligence or fault of others, conditions of equipment used, facility conditions, weather conditions, negligent first aid operations and procedures, and other risks not known to me or not reasonably foreseeable at this time. I further understand and agree that any injury, illness, damage, disability, or death that I may sustain by any means is my sole responsibility, except as explicitly specified in this Agreement.

**I KNOWINGLY AND VOLUNTARILY ASSUME ALL SUCH RISKS, BOTH KNOWN AND UNKNOWN, EVEN IF ARISING FROM THE ACTS OF THE RELEASEES, UNLESS THE RISKS ARISE SOLELY FROM THE RELEASEES' NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT** and I assume full responsibility for my use of the facility and equipment.

**RELEASE AND WAIVER OF LIABILITY:** I, on behalf of myself, my personal representatives, heirs, executors, administrators, agents, and assigns, **HEREBY RELEASE, WAIVE, DISCHARGE, AND COVENANT NOT TO SUE** Otterbein University, including its governing board, trustees, directors, officers, employees, and any Users, agents or volunteers acting at Otterbein University's direction (collectively referred to as "Releasees"), for any and all liability, including any and all claims, demands, causes of action (known or unknown), suits, or judgments of any and every kind (including attorneys' fees), arising from any injury, damage or death that I may suffer as a result of my use of the facility and equipment, **REGARDLESS OF WHETHER THE INJURY, DAMAGE OR DEATH IS CAUSED BY THE RELEASEES, UNLESS THE INJURY DAMAGE OR DEATH IS CAUSED SOLELY BY THE RELEASEES' NEGLIGENCE OR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, AND REGARDLESS OF WHETHER THE INJURY, DAMAGE OR DEATH OCCURS WHILE IN,**

**ON, UPON, OR IN TRANSIT, INCLUDING OVERNIGHT STAY, TO OR FROM THE PREMISES WHERE THE ACTIVITY, OR ANY LOCATION ADJUNCT TO THE ACTIVITY, OCCURS OR IS BEING CONDUCTED.**

I further agree that the Releasees are not in any way responsible for any injury or damage that I sustain as a result of my own negligent or grossly negligent acts or my own intentional misconduct and I hereby release Releasees from any liability for the same.

Otterbein University expressly disclaims liability for actions of third parties, which includes but is not limited to Users, agents or volunteers who are not acting under the direction and control of Otterbein University. I, hereby release Releasees from any and all liability, including any and all claims, demands, causes of action (known or unknown), suits, or judgments of any and every kind (including attorneys' fees), arising from any injury, damage or death that I may suffer as a result of actions of any third parties who are not Releasees.

**INDEMNITY:** I, on behalf of myself, my personal representatives, heirs, executors, administrators, agents, and assigns, agree to hold harmless the Releasees from any and all liability, including any and all claims, demands, causes of action (known or unknown), suits, or judgments of any and every kind (including attorneys' fees), arising from any injury, damage or death that I may suffer as a result of my use of the facility and equipment, **REGARDLESS OF WHETHER THE INJURY, DAMAGE OR DEATH IS CAUSED BY THE RELEASEES OR OTHERWISE, UNLESS THE INJURY, DAMAGE OR DEATH IS SOLELY CAUSED BY THE RELEASEES' NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT.**

I further agree that, in the event that I or any of my family members, personal representatives, heirs, executors, administrators, agents, assigns or any other third party attempts to assert any claims, demands, causes of action (known or unknown), suits, or judgments of any and every kind (including attorneys' fees), arising from any injury, damage or death to me, including but not limited to any injury resulting from my own negligence, gross negligence or intentional misconduct during or related to the use of the facility and equipment, I AGREE TO DEFEND AND INDEMNIFY RELEASEES AGAINST SUCH CLAIMS, DEMANDS, CAUSES OF ACTION (KNOWN OR UNKNOWN), SUITS, AND/OR JUDGMENTS OF ANY AND EVERY KIND (INCLUDING ATTORNEYS' FEES) to the fullest extent permitted by Law.

**CHOICE OF LAW:** I hereby agree that this Agreement shall be construed in accordance with the laws of the State of Ohio.

**SEVERABILITY:** If any term or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law governing this Agreement the validity of the remaining portions shall not be affected thereby.

**I hereby acknowledge that I have read, understand and will abide by each of the terms and conditions of this Agreement. I understand that I may seek legal counsel of my own choosing to fully explain any terms of this Agreement to me before I sign it.**

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name of User)

**Signature of Parent/Guardian for Users Who Are Minors:**

I certify that I have custody of User or am the legal guardian of User by court order. I HAVE READ THIS AGREEMENT AND FULLY UNDERSTAND AND AGREE TO ITS TERMS. **I AM AWARE THAT THIS AGREEMENT INCLUDES A RELEASE AND WAIVER OF LIABILITY, AN ASSUMPTION OF RISK, AND AN AGREEMENT TO INDEMNIFY RELEASEES.**

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Parent or Guardian)

---

(Printed Name of Parent or Guardian)

**Received by:**

Date: \_\_\_\_\_

---

(Signature)

---

(Printed Name of Otterbein University Official)